



State of Utah

Department of
Natural Resources

ROBERT L. MORGAN
Executive Director

Division of
Oil, Gas & Mining

LOWELL P. BRAXTON
Division Director

OLENE S. WALKER
Governor

GAYLE F. McKEACHNIE
Lieutenant Governor

November 9, 2004

CERTIFIED RETURN RECEIPT
7099 3400 0016 8896 0464

Barry Peterson
Gold Star Stone
160 East Cottonwood
Box 62
Oakley, Idaho 83346

Subject: Proposed Assessment for State Cessation Order No. MC-04-01-07(1),
Gold Star Stone/Barry Peterson, Lone Pine Quarry, M/003/050, Box
Elder County, Utah

Dear Mr. Peterson:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the Assessment Officer for assessing penalties under R647-7.

Enclosed is the proposed civil penalty assessment for the above referenced Cessation Order (CO). The CO was issued by Division Inspector, Lynn Kunzler, on October 21, 2004.

Rule R647-7-103 et. seq. has been utilized to formulate the proposed penalty for the violations as follows:

- Violation 1 of 1 \$440

The enclosed worksheet specifically outlines how the violation was assessed.

By these rules, any written information, which was submitted by you or your agent within fifteen (15) days of receipt of this CO has been considered in determining the facts surrounding the violation and the amount of this penalty.


Under R647-7-106, there are two informal appeal options available to you:

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1. If you wish to informally appeal the fact of this CO, you should file a written request for an Informal Conference within thirty (30) days. This conference will be conducted by the Division Director or Associate Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the assessment conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of the violation will stand, the proposed penalty will become final, and the penalty will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,



Daron R. Haddock
Assessment Officer

DRH:jb
Enclosure: worksheet
cc: Vicki Bailey, Accounting
Vickie Southwick, Exec. Sec.
o:\m003-boxelder\m0030050-lonepine\non-compliance\assessmn-04-01-07.doc

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event, which the violated standard was designed to prevent?
2. What is the probability of the occurrence of the event, which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS:

*** *The operator has been conducting mining operations outside the area that was permitted. A new road was constructed and the disturbed area expanded without first having a permit modification approved.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 5

PROVIDE AN EXPLANATION OF POINTS:

*** *The inspector stated that an additional 0.9 acres of land outside of the approved mining area has been disturbed. Mining is being conducted in accordance with the existing notice of intent, but not in an area where they are authorized to mine. Actual environmental harm may not be evident but some damage is occurring due to the fact that the area is disturbed without authorization and right of entry. This equates to points (5) in the lower part of the range.*

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? _____ RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS _____

*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- Rapid Compliance -11 to -20*
(Permittee used diligence to abate the violation)
- Normal Compliance -1 to -10*
(Operator complied within the abatement period required)
- Extended Compliance 0
(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? difficult (requires the submission of plans)

ASSIGN GOOD FAITH POINTS -10

PROVIDE AN EXPLANATION OF POINTS:

*** *The Operator is required to submit a notice of intent to modify the approved permit area and a reclamation bond for the new disturbed area. The abatement deadline was met when the plans and bond were submitted on November 8, 2004. Good faith points are awarded at the top of the Normal Compliance Range.*

V. ASSESSMENT SUMMARY (R647-7-103.3)

NOTICE OF VIOLATION # <u>MC-04-01-06(1)</u>	
I. TOTAL HISTORY POINTS	<u>0</u>
II. TOTAL SERIOUSNESS POINTS	<u>25</u>
III. TOTAL NEGLIGENCE POINTS	<u>5</u>
IV. TOTAL GOOD FAITH POINTS	<u>-10</u>
TOTAL ASSESSED POINTS	<u>20</u>
TOTAL ASSESSED FINE	<u>\$ 440</u>